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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/581,806

04/17/2007

Antonius Cornelis H.M. Visker

ARSI-013

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EXAMINER

FLETCHER III, WILLIAM P

ART UNIT

PAPER NUMBER

1717

MAIL DATE

DELIVERY MODE

06/01/2011

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/581,806	VISKER, ANTONIUS CORNELIS H.M.	
	<b>Examiner</b>	<b>Art Unit</b>	
	WILLIAM PHILLIP FLETCHER III	1717	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2011.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 30,31 and 34-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 34-45 is/are allowed.
- 6) ☒ Claim(s) 30,31,46 and 47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Amendment***

1. The amendment and remarks filed 23 May 2011 are noted with appreciation.
2. Claims 30, 31, and 34-37, remain pending.

***Response to Arguments***

3. Applicant's arguments, see the remarks, filed 23 May 2011, have been fully considered but they are not persuasive. Once a *prima facie* case of obviousness has been established, the burden shifts to Applicant to come forward with arguments and/or evidence to rebut the *prima facie* case. The arguments of counsel cannot take the place of factually supported objective evidence. See MPEP 2144.05. There is no factually supported evidence of record that an adhesive layer *must* be in a completely non-cross-linked state and that any and all non-cross-linked layers cannot function as adhesives. Further, there is no factually supported evidence that the layer of JP '680 is completely non-cross-linked. The claims require merely *wherein the covering layer is cross-linked on the carrier*. This does not require complete cross-linking; even a single cross-link satisfies the limitation of this claim. JP '680 applies a mixture of resin and cross-linker, which suggests that there is at least some degree of cross-linking satisfying the limitation of the claims.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 30, 31, 46, and 47, are rejected under 35 U.S.C. 103(a) as being unpatentable over US 3,161,554 A in view of JP 02-034680 A.

A. Claims 30 and 46

i. US '554 teaches a process and article produced thereby. See, for example, 5:56-6:11. A coating composition **28** (i.e., covering layer) is applied to a flat, flexible carrier **23**. The covering layer **28** is perforated **22**. The carrier **23** may later be removed. Since the claim does not require that the claimed *layer configured to attach to and separate from the covering layer* be separate and distinct from the carrier itself, this limitation is satisfied.

ii. US '554 identifies the coating composition **28** as a thermoplastic pressure-sensitive adhesive (PSA). This reference does not expressly state that the coating composition **28** is cross-linked. It is the Primary Examiner's position that any suitable thermoplastic PSA composition, known in the art, may advantageously be utilized in the process of US '554 with identical results; namely, the production of an adhesive tape.

iii. JP '680 teaches an example of a cross-linkable, thermoplastic PSA that may be applied to a backing to form an adhesive tape.

iv. Consequently, based on the reasons given in 5(A)(ii) above, it would have been obvious to one skilled in the art to modify the process of US '554 so as to utilize, as the thermoplastic PSA composition, the cross-linkable, thermoplastic PSA taught by JP '680. One skilled in the art would

have been motivated to do so by the desire and expectation of successfully production of an adhesive tape.

B. Claims 31 and 47

i. Neither of the cited reference teach the claimed size of the perforations.

ii. US '554 teaches that the perforations 'are pervious to air and permit the ready passage of moisture and air' [1:12-14].

iii. It is the Primary Examiner's position that the size of the perforations is a result-effective variable affecting the rate and degree of moisture/air passage. Consequently, it would have been obvious to one skilled in the art to optimize this result-effective variable by routine experimentation, absent evidence of criticality. See MPEP § 2144.05.

***Allowable Subject Matter***

6. Claims 34-45 remain allowed.

7. The following is an examiner's statement of reasons for allowance: The reasons remain the same as set forth under this heading in prior Office actions.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM PHILLIP FLETCHER III whose telephone number is (571)272-1419. The examiner can normally be reached on Monday through Friday, 9:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dah-Wei Yuan can be reached on (571) 272-1295. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1717

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William Phillip Fletcher III/  
Primary Examiner, Art Unit 1715

26 May 2011